

REMARKS

In response to the Office Action mailed March 25, 2008, in connection with the above-identified application, Applicants respectfully request entry of the amended and new claims. Claims 33, 36, 37 and 42 to 45 have been cancelled herein without prejudice. Applicants maintain the right to prosecute the cancelled claims in any related application claiming the benefit of priority of the subject application. New claims 89 to 96 have been added. Accordingly, upon entry of this response claims 21 to 23, 27 to 32, 35, 47 and 89 to 96 are pending.

Support for Claim Amendments

The amendments to the claims are supported throughout the specification or were made to address various informalities. In particular, the amendments to claim 21 to recite SEQ ID NO:5 and SEQ ID NO:7 is supported, for example, by originally filed claims 21 to 23, and at page 14, lines 4-10. The amendments reciting "isolated" are supported, for example, at page 15, lines 10-26. The amendments reciting that the claims are directed to antibodies and functional fragments thereof are supported, for example, by originally filed claims 18 to 32 and 34 to 37. The amendments reciting particular percent identities to SEQ ID NO:5 and SEQ ID NO:7 (e.g., 80%, 85%, 90%, etc.) are supported, for example by originally filed claim 42, and at page 14, lines 4-10. The amendments reciting binding to certain carcinomas are supported, for example, by originally filed claim 33, at page 2, lines 20-23; and at page 3, lines 19-22. The amendments reciting binding to certain deposited cells are supported, for example, by originally filed claims 39 and 42, at page 4, line 24, to page 5, line 3; and at page 13, lines 19-28. The remaining amendments were made to provide antecedent basis or to provide proper claim dependency in view of the cancellation of certain claims. Thus, as the claim amendments are supported throughout the specification or were made to address various informalities, no new matter has been added and entry thereof is respectfully requested.

Support for New Claims

New claims 89 to 96 are supported throughout the specification. In particular, claims 89 to 92 are supported as set forth above, for example, by originally filed claims 18 to 32, 34 to 37 and 42, at page 15, lines 10-26; and at page 14, lines 4-10. Claims 93 and 94 are supported, for example, by originally filed claims 39 to 42, at page 4, line 24, to page 5, line 3; at page 13, lines 19-28; and Figures 3-6. Claims 95 and 96 are supported, for example, by

originally filed claims 39 and 42, at page 14, lines 4-10; and at page 24, line 26, to page 25, line 7. Thus, as claims 89 to 96 are supported throughout the specification, no new matter has been added and entry thereof is respectfully requested.

Response to Restriction Requirement and Traversal

In response to the restriction requirement, Applicants elect, with traverse, the Group I claims. Applicants' traversal is based upon the fact that the amended and new claims submitted herewith are directed to antibodies and functional fragments thereof. Thus, the claims require the presence of both heavy and light chain variable region amino acid sequences. Furthermore, the claims recite both exemplary heavy and light chain variable region amino acid sequences, namely SEQ ID NO:5 and SEQ ID NO:7, respectively. Consequently, as the claims are directed to antibodies and functional fragments thereof and therefore require both heavy and light chain variable region amino acid sequences, and also recite heavy and light chain variable region amino acid sequences, namely SEQ ID NO:5 and SEQ ID NO:7 respectively, the Groups I and II inventions are within a shared structural element, i.e., an antibody or functional fragment thereof, and therefore share a special technical feature. Accordingly, Applicants respectfully request that the restriction be withdrawn with respect to SEQ ID NO:5 and SEQ ID NO:7.


Moreover, in order for Restriction to be proper there must be a serious burden to examine the claims on the merits (M.P.E.P. §803). Here, there is no serious burden to search merely two amino acid sequences, namely SEQ ID NOs:5 and 7. Additionally, the amended and new claims are directed to antibodies and functional fragments which therefore require a heavy and a light chain variable region sequence, and the amended and new claims each recite exemplary heavy and light chain variable region sequences, SEQ ID NOs:5 and 7. Consequently, there is no serious burden to search and examine the amended and new claims. Accordingly, the restriction is improper and must be withdrawn.

CONCLUSION

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP



ROBERT M. BEDGOOD

Reg. No. 43488

Tel. No. 858.509.4065

Fax No. 858 509.4010

Date: April 25, 2008
12255 El Camino Real
Suite 300
San Diego, CA 92130-4088
(619) 234-5000

CERTIFICATION UNDER 37 C.F.R. §§ 1.8 and/or 1.10*

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